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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,223	05/03/2002	Ulf Braker	487.1044	2644
7590 06/28/2004				
Davidson Davidson & Kappel 14th Floor 485 Seventh Avenue New York, NY 10018		EXAMINER VAN PELT, BRADLEY J		
		ART UNIT 3682		PAPER NUMBER

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

ST

Office Action Summary

Application No.

10/031,223

Applicant(s)

BRAKER, ULF

Examiner

Bradley J Van Pelt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/16/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the coupling unit, brake cable, push button, and compression spring related to the push button must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words

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in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it exceeds 150 words and includes "means." Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 22-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The structure of the coupling unit, which tensions a brake cable is not clear.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 22-31 rejected under 35 U.S.C. 103(a) as being unpatentable over Noel et al. (USPN 5,205,184) in view of DE 2 401 096.

Noel et al. disclose an actuating device for a parking brake in motor vehicles, comprising a toothed segment (2) which is arranged on a bridge-type support of the vehicle body; a brake-actuating lever (6) which is articulated on the bridge-type support; a coupling unit (16) which tensions a brake cable in accordance with displacement of the brake-actuating lever; a fixing catch (4) which is articulated on the brake-actuating lever and interacts with the toothed segment; a catch spring (7) for pre-stressing the fixing catch in the direction of the toothed segment; and a linkage (17) which can be actuated along the brake-actuating lever, wherein the linkage displaces the fixing catch out of engagement with the toothed segment counter to the pre-stressing of the catch spring, wherein the fixing catch is designed as a double lever, wherein the double lever comprises one end facing away from the toothed segment, wherein the catch spring is arranged outside the linkage and engages on said one end of the double lever, and wherein the linkage is decoupled from the fixing catch when not in the actuating state (gap between rod 17 and fixing catch 4);

the double lever comprises a long lever that faces away from the tothing, and wherein a stop point (4a) is provided on said long lever against which one end of the linkage, which end is remote from a handle of the brake-actuating lever, strikes in the actuating state;

the fixing catch comprises a short lever which faces the toothed segment, wherein the short lever is provided with an engagement lug which, when engaged with the toothed segment, fixes the brake-actuating lever in its applied position;

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the linkage comprises an axial guide (25 will act as guide) at its rear;

the linkage comprises a push rod which is guided in an axially displaceable manner and is connected rigidly to a push button;

the push rod and the push button are acted upon continuously by the load of a compression spring which is supported on the brake-actuating lever and acts counter to the release direction;

wherein the fixing catch is designed as a sheet-metal pressed part¹.

Noel et al. do not show the catch spring is designed as a compression spring; wherein the stop point is arranged on a side of the long lever that faces away from the catch spring; the axial guide is formed by a slot which is formed in the rear end of the linkage and in which a pin, fastened to the brake-actuating lever, engages; wherein the slot has a longitudinal axis and the catch spring has a main axis, wherein the longitudinal axis of the slot and the main axis of the catch spring are arranged essentially parallel.

DE 2 401 096 shows the catch spring is designed as a compression spring (15); the axial guide is formed by a slot (18b) which is formed in the rear end of the linkage and in which a pin (2), fastened to the brake-actuating lever, engages; wherein the slot has a longitudinal axis and

¹ Note regarding claim 31, applicant is reminded that although the product by process claim is permissible the process in which the product is made cannot be given patentable weight in a product claim. Therefore, since the limitation of "pressed part" is not given patentable weight, the fixing catch of that of Noel et al. is deemed fully to meet the claimed fixing catch. In other words, the determination of patentability in a product-by-process claim is based on the product itself, even though the claim may be limited and defined by the process. The product or article in such a claim is unpatentable if it is the same as or obvious from the product of the prior art, even if the prior product or article was made by a different process. See *In re Thorpe*, 777 F.2d 695, 697, 227 USPQ 964, 966 (Fed. Cir. 1985).

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the catch spring has a main axis, wherein the longitudinal axis of the slot and the main axis of the catch spring are arranged essentially parallel (see Fig. 1).

To modify the apparatus of Noel et al. so as to provide a pin and slot connection at the end of the push rod would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the teachings of DE 2 401 096 that such an arrangement improves the guiding of the rod.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange the stop point on a side of the long lever that faces away from the catch spring, since it has been held that rearranging parts of an invention involves only routine skill in the art.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawaguchi et al. (USPN 4,519,270).


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley J Van Pelt whose telephone number is 703.305.8176. The examiner can normally be reached on M-Th 7:00-4:30, 2nd F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJVP 

 6/22/04
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